

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

DAVID BOYD KERR,

Petitioner-Appellant.

v.

No. 98-7352

RONALD J. ANGELONE, Director of

the Virginia Department of

Corrections,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Virginia, at Norfolk.
Raymond A. Jackson, District Judge.

(CA-98-160-2)

Submitted: March 30, 1999

Decided: April 29, 1999

Before TRAXLER and KING, Circuit Judges, and

PHILLIPS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

COUNSEL

David Boyd Kerr, Appellant Pro Se. William W. Muse, Assistant
Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

David Boyd Kerr, a Virginia inmate, appeals the district court's order denying relief on his petition filed pursuant to 28 U.S.C.A. § 2254 (West 1994 & Supp. 1998). We dismiss the appeal.

In his petition, Kerr claimed that two disciplinary convictions that resulted in the loss of good time credits violated the Due Process Clause. The Supreme Court of Virginia previously had, without discussion, denied Kerr's state habeas corpus challenges to the convictions as "frivolous." The magistrate judge recommended that the district court defer to the state court decisions pursuant to 28 U.S.C.A. § 2254(d) (West Supp. 1999) and deny relief. Over Kerr's objections, the district court adopted the recommendation of the magistrate judge and denied the petition.

Because each of the Virginia court's decisions is devoid of any reasoning supporting the conclusion that Kerr's habeas corpus petitions were frivolous, it is impossible to say whether deference to those decisions under § 2254(d) was correct. However, after carefully reviewing the record in this case, we conclude that Kerr was afforded all the process due him in connection with both disciplinary proceedings. See Wolff v. McDonnell, 418 U.S. 539, 564 (1974). In each case, he received notice of the charge against him, a statement of the reasons for the unfavorable decision, and the opportunity to call witnesses in his defense.

We accordingly deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED